

Mullen et al.

S/N: 09/681,475

REMARKS

Claims 1-34 are pending in the present application. In the Office Action mailed December 14, 2004, the Examiner rejected claims 1-34 under 35 U.S.C. §103(a) as being unpatentable over Fera et al. (USP 6,338,152) in view of Hershey et al. (USP 6,175,934), and further in view of Parker et al. (US 2002/0116541).

In the Office Action mailed December 14, 2004, the Examiner reopened prosecution with a new ground of rejection. Although the Examiner did not explicitly state that all previous grounds of rejection have been withdrawn, the Examiner stated that the previous arguments with respect to claims 1-34 are moot in view of the new grounds of rejection. Therefore, the arguments presented in the Appeal Brief filed September 21, 2004 are deemed persuasive and all previous grounds of rejection have been overcome.

The Examiner has now rejected claims 1-34 as being unpatentable over Fera et al. in view of Hershey et al., and further in view of Parker et al. Applicant respectfully requests withdrawal of the present rejection based on commonly owned references. Referring to MPEP §§ 706.02(m) and 715.01(b), “[f]or applications filed on or after November 29, 1999, this [rejection under 103(a)] might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” MPEP § 706.02(k). Applicant requests that the rejection be withdrawn because Fera et al. and Hershey et al. are not proper prior art under §103(a) since the references are assigned to General Electric Company, as is the current application. The assignment has been recorded at Recd/Frame #011831/0075. Further, the inventors of the present invention were under a duty to assign their rights in the application to General Electric Company at the time the invention was made. See MPEP § 706.02(b). Accordingly, Applicant requests withdrawal of the rejection of claims 1-34 under §103(a). As such, no basis of rejection remains.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-34.

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Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



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